

***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 11-13 are pending in the application, with claims 11-13 being the independent claim. Claims 11-13 are sought to be amended. Claims 1-10 are sought to be canceled without prejudice to or disclaimer of the subject matter therein. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

***Elections/Restrictions***

Applicants have canceled claims 1-10 without prejudice to or disclaimer of the subject matter therein.

***Rejections Under 35 U.S.C. § 101***

The Office Action rejected claims 11-13 under 35 U.S.C. § 101 "because the claimed invention is directed to non-statutory subject matter." (Office Action at p. 2.)

Regarding claim 11, the Office Action rejected the claim because it "fails to recite any step as being perform by a computer. . . . Examiner suggests that at least one critical step be

recited in the technological art in order to render the claim as a whole within the technological art." (Office Action at p. 3.) Accordingly, Applicants have amended each step of claim 11 to clarify that the step is performed by "a computer processor". Thus, amended claim 11 is directed to statutory subject matter in compliance with 35 U.S.C. § 101.

Regarding claim 12, the Office Action rejected the claim because it "recites technological art only in the preamble. . . . The examiner suggest the following format for the computer system claim:

A computer;

A data storage device in communication with the processor, said data storage device having stored:

Means to ...

Means to .. etc. etc." (Office Action at pp. 3-4.) Accordingly, Applicants have amended claim 12 to include "a computer" and "a data storage device in communication with said computer, said data storage device having stored:". Thus, amended claim 12 is directed to statutory subject matter in compliance with 35 U.S.C. § 101.

Regarding claim 13, the Office Action does not explain how this claim fails to comply with 35 U.S.C. § 101. Accordingly, Applicants maintain that claim 13 is directed to statutory subject matter in compliance with 35 U.S.C. § 101.

Therefore, Applicants respectfully request that the Examiner reconsider and remove the rejections of claims 11-13 under 35 U.S.C. § 101.

***Rejections Under 35 U.S.C. § 112***

The Office Action rejected claims 11-13 under the second paragraph of 35 U.S.C. § 112 "as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." (Office Action at p. 5.)

The Office Action at page five specifically states:

'natural logarithm of weather condition relatives called for in the financial instrument' which renders the claim(s) indefinite because one cannot ascertain with sufficient degree of accuracy and clear definition the quantitative values for resolution of the mathematical operation of logarithm. In other words, one must define the parameter in a quantifiable manner in order to perform a mathematical operation. The term 'weather condition relatives' as relates to a financial instruments is not defined in the specification with sufficient clarity such that one of ordinary skill in the art may interpret as a quantitative parameter.

Accordingly, Applicants have amended each of claims 11-13 to replace the phrase "weather condition relatives called for in" with the phrase "a quantifiable weather condition related to". Support for these amendments is found, *inter alia*, in the specification of the present patent application at paragraphs 0070, 0072, and 0079. For example, paragraph 0070 recites, *inter alia*:

In an embodiment of the present invention, the weather condition or pattern which serves as the basis of the contract is entered (in some embodiments, multiple weather conditions or patterns can be entered). In an embodiment of the present invention, the weather condition or pattern may be--without limitation--HDDs, CDDs, precipitation, mean temperature, etc., or a combination thereof.

Thus, each of amended claims 11-12 particularly points out and distinctly claims the subject matter which Applicants regard as the invention. Therefore, Applicants respectfully request

that the Examiner reconsider and remove the rejections of claims 11-13 under the second paragraph of 35 U.S.C. § 112.

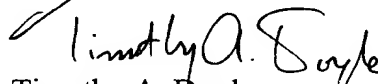
***Conclusion***

All of the stated grounds of rejection have been accommodated. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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